

By: Harris S.B. No. 231
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COMMITTEE SUBSTITUTE FOR S.B. No. 231 By: Watson

A BILL TO BE ENTITLED
AN ACT

relating to child support enforcement.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (g), Section 105.006, Family Code, is amended to read as follows:

(g) The Title IV-D agency shall promulgate and provide forms for a party to use in reporting to the court and ~~[, when established, to]~~ the state case registry under Chapter 234 the information required under this section.

SECTION 2. Section 108.001, Family Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) Except as provided by this chapter, the clerk of the court shall transmit to the bureau of vital statistics a certified record of the order rendered in a suit, together with the name and all prior names, birth date, and place of birth of the child ~~[prepared by the petitioner]~~ on a form provided by the bureau. The form shall be completed by the petitioner and submitted to the clerk at the time the order is filed for record.

(d) In a Title IV-D case, the Title IV-D agency may transmit the record and information specified by Subsection (a) to the bureau of vital statistics, with a copy to the clerk of the court on request by the clerk. The record and information are not required to be certified if transmitted by the Title IV-D agency under this subsection.

SECTION 3. Section 108.004, Family Code, is amended to read as follows:

Sec. 108.004. TRANSMITTAL OF FILES ON LOSS OF JURISDICTION. On the loss of jurisdiction of a court under Chapter 155, 159, or 262, the clerk of the court shall transmit to the central registry of the bureau of vital statistics a certified record, on a form provided by the bureau, stating that jurisdiction has been lost, the reason for the loss of jurisdiction, and the name and all previous names, date of birth, and place of birth of the child.

SECTION 4. Subsections (a) and (b), Section 154.186, Family Code, are amended to read as follows:

(a) The obligee, obligor, or a child support agency of this state or another state may send to the employer a copy of the order requiring an employee to provide health insurance coverage for a child or may include notice of the medical support order in an order or writ of withholding sent to the employer in accordance with Chapter 158.

(b) In an appropriate Title IV-D case, the Title IV-D agency of this state or another state shall send to the employer the national medical support notice required under Part D, Title IV of the federal Social Security Act (42 U.S.C. Section 651 et seq.), as amended. The notice may be used in any other suit in which an obligor is ordered to provide health insurance coverage for a child.

SECTION 5. Section 157.102, Family Code, is amended to read as follows:

Sec. 157.102. CAPIAS OR WARRANT; DUTY OF LAW ENFORCEMENT OFFICIALS. Law enforcement officials shall treat a [the] capias or arrest warrant ordered under this chapter in the same manner as an arrest warrant for a criminal offense and shall enter the capias or

warrant in the computer records for outstanding warrants maintained by the local police, sheriff, and Department of Public Safety. The capias or warrant shall be forwarded to and disseminated by the Texas Crime Information Center and the National Crime Information Center.

SECTION 6. Section 157.268, Family Code, is amended to read as follows:

Sec. 157.268. APPLICATION OF CHILD SUPPORT PAYMENT. Child support collected shall be applied in the following order of priority:

- (1) current child support;
- (2) non-delinquent child support owed;
- (3) interest on the principal amounts specified in Subdivisions (4) and (5);
- (4) the principal amount of child support that has not been confirmed and reduced to money judgment;
- (5) the principal amount of child support that has been confirmed and reduced to money judgment; and
- (6) the amount of any ordered attorney's fees or costs, or Title IV-D service fees authorized under Section 231.103 for which the obligor is responsible.

SECTION 7. Subsection (a), Section 157.318, Family Code, is amended to read as follows:

(a) A lien is effective until all current support and child support arrearages, including interest, ~~and~~ any costs and reasonable attorney's fees, and any Title IV-D service fees authorized under Section 231.103 for which the obligor is responsible, have been paid or the lien is otherwise released as provided by this subchapter.

SECTION 8. Section 157.324, Family Code, is amended to read as follows:

Sec. 157.324. LIABILITY FOR FAILURE TO COMPLY WITH ORDER OR LIEN. A person who knowingly disposes of property subject to a child support lien ~~or~~ or who, after a foreclosure hearing, fails to surrender on demand nonexempt personal property as directed by a court ~~[or administrative order] under this subchapter[, or who fails to comply with a notice of levy under this subchapter]~~ is liable to the claimant in an amount equal to the value of the property disposed of or not surrendered, not to exceed the amount of the child support arrearages for which the lien[, notice of levy,] or foreclosure judgment was issued.

SECTION 9. Section 157.327, Family Code, is amended by amending Subsection (b) and adding Subsection (f) to read as follows:

(b) The notice under this section must:

- (1) identify the amount of child support arrearages owing at the time the amount of arrearages was determined or, if the amount is less, the amount of arrearages owing at the time the notice is prepared and delivered to the financial institution; and

- (2) direct the financial institution to pay to the claimant, not earlier than the 15th day or later than the 21st day after the date of delivery of the notice, an amount from the assets of the obligor or from funds due to the obligor that are held or controlled by the institution, not to exceed the amount of the child support arrearages identified in the notice, unless:

- (A) the institution is notified by the claimant that the obligor has paid the arrearages or made arrangements satisfactory to the claimant for the payment of the arrearages;

- (B) the obligor or another person files a suit under Section 157.323 requesting a hearing by the court; or

- (C) if the claimant is the Title IV-D agency, the obligor has requested an agency review under Section 157.328.

(f) A financial institution may deduct the fees and costs identified in Subsection (c) from the obligor's assets before paying the appropriate amount to the claimant.

SECTION 10. Section 157.330, Family Code, is amended to read as follows:

Sec. 157.330. FAILURE TO COMPLY WITH NOTICE OF LEVY. (a) A person who possesses or has a right to property that is the subject

of a notice of levy delivered to the person and who refuses to surrender the property or right to property to the claimant on demand is liable to the claimant in an amount equal to the value of the property or right to property not surrendered but that does not exceed the amount of the child support arrearages for which the notice of levy has been filed.

(b) A claimant may recover costs and reasonable attorney's fees incurred in an action under this section.

SECTION 11. Subchapter C, Chapter 158, Family Code, is amended by adding Section 158.214 to read as follows:

Sec. 158.214. WITHHOLDING FROM LUMP-SUM PAYMENTS. (a) In this section, "lump-sum payment" means income in the form of a bonus or commission or an amount paid in lieu of vacation or other leave time. The term does not include an employee's usual earnings or an amount paid as severance pay on termination of employment.

(b) This section applies only to an employer who receives an administrative writ of withholding in a Title IV-D case that requires that an obligor's income be withheld for child support arrearages.

(c) An employer to whom this section applies may not make a lump-sum payment to the obligor in the amount of \$500 or more without first notifying the Title IV-D agency that issued the writ to determine whether all or a portion of the payment should be applied to the child support arrearages.

(d) After notifying the Title IV-D agency in compliance with Subsection (c), the employer may not make the lump-sum payment before the earlier of:

(1) the 10th day after the date on which the employer notified the Title IV-D agency; or

(2) the date on which the employer receives authorization from the Title IV-D agency to make the payment.

(e) If the employer receives a timely authorization from the Title IV-D agency under Subsection (d)(2), the employer may make the payment only in accordance with the terms of that authorization.

SECTION 12. Subsection (a), Section 158.502, Family Code, is amended to read as follows:

(a) An administrative writ of withholding under this subchapter may be issued by the Title IV-D agency at any time until all current support, including medical support, and child support arrearages, and Title IV-D service fees authorized under Section 231.103 for which the obligor is responsible, have been paid. The writ issued under this subsection may be based on an obligation in more than one support order.

SECTION 13. Section 158.506, Family Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) If a review under this section fails to resolve any issue in dispute, the obligor ~~[is entitled to the remedies provided by Section 158.317 for cases in which a notice of an application for judicial writ of withholding was not received. The obligor]~~ may file a motion with the court to withdraw the administrative writ of withholding and request a hearing with the court not later than the 30th day after receiving notice of the agency's determination. Income withholding may not be interrupted pending a hearing by the court.

(d) If an administrative writ of withholding issued under this subchapter is based on an order of a tribunal of another state that has not been registered under Chapter 159, the obligor may file a motion with an appropriate court in accordance with Subsection (c).

SECTION 14. Section 158.507, Family Code, is amended to read as follows:

Sec. 158.507. ADMINISTRATIVE WRIT TERMINATING WITHHOLDING. An administrative writ to terminate withholding may be issued and delivered to an employer by the Title IV-D agency when all current support, including medical support, and child support arrearages, and Title IV-D service fees authorized under Section 231.103 for which the obligor is responsible, have been paid.

SECTION 15. Subsection (b), Section 231.006, Family Code, is amended to read as follows:

(b) A child support obligor or business entity ineligible to receive payments under Subsection (a) ~~[or a child support obligor ineligible to receive payments under Subsection (a-1)]~~ remains ineligible until:

(1) all arrearages have been paid;

(2) the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency; or

(3) the court of continuing jurisdiction over the child support order has granted the obligor an exemption from Subsection (a) as part of a court-supervised effort to improve earnings and child support payments.

SECTION 16. The heading to Section 231.012, Family Code, is amended to read as follows:

Sec. 231.012. CHILD SUPPORT ~~[COUNTY ADVISORY]~~ WORK GROUP.

SECTION 17. Subsections (a), (b), and (c), Section 231.012, Family Code, are amended to read as follows:

(a) The director of the Title IV-D agency may convene ~~[shall establish]~~ a ~~[county advisory]~~ work group representing public and private entities with an interest in child support enforcement in this state to work with ~~[assist]~~ the director ~~[Title IV-D agency]~~ in developing strategies to improve ~~[and changing]~~ child support enforcement in this state ~~[programs that affect counties. The work group shall consist of at least one of each of the following:~~

~~[(1) county judge,~~

~~[(2) county commissioner,~~

~~[(3) district clerk,~~

~~[(4) domestic relations officer,~~

~~[(5) associate judge for Title IV-D cases; and~~

~~[(6) district court judge].~~

(b) The director of the Title IV-D agency shall appoint the members of the work group after consulting with appropriate public and private entities ~~[the relevant professional or trade associations of the professions that are represented on the work group. The director of the Title IV-D agency shall determine the number of members of the work group and shall designate the presiding officer of the group].~~

(c) The work group shall meet as convened by the director of the Title IV-D agency and consult with~~+~~

~~[(1) advise] the director on matters relating to [of the Title IV-D agency of the impact on counties that a proposed] child support enforcement in this state, including the delivery of Title IV-D services [program or a change in a program may have,~~

~~[(2) establish a state-county child support improvement plan,~~

~~[(3) advise the Title IV-D agency on the operation of the state disbursement unit,~~

~~[(4) plan for monetary incentives for county partnership programs,~~

~~[(5) expand the number of agreements with counties for enforcement services; and~~

~~[(6) work with relevant statewide associations on a model partnership agreement].~~

SECTION 18. Section 231.103, Family Code, is amended by amending Subsections (a) and (f) and adding Subsection (g-1) to read as follows:

(a) The Title IV-D agency may:

(1) charge a \$25 annual ~~[reasonable]~~ application fee;

(2) charge appropriate ~~[a \$25 annual]~~ service fees ~~[fee]~~; and

(3) to the extent permitted by federal law, recover costs for the services provided in a Title IV-D case.

(f) The state disbursement unit established and operated by the Title IV-D agency under Chapter 234 may collect a monthly service fee of \$3 in each case in which ~~[deducted from]~~ support payments are processed through the unit ~~[in a case for which the Title IV-D agency is not providing services].~~

(g-1) A fee authorized under this section for providing child support enforcement services is part of the child support obligation if the obligor is responsible for the fee, and may be enforced against the obligor through any method available for the enforcement of child support, including contempt.

SECTION 19. Section 233.019, Family Code, is amended by adding Subsection (d) to read as follows:

(d) A child support order issued by a tribunal of another state and filed with an agreed review order as an exhibit to the agreed review order shall be treated as a confirmed order without the necessity of registration under Subchapter G, Chapter 159.

SECTION 20. Subsection (a), Section 234.008, Family Code, is amended to read as follows:

(a) ~~Not [Except as provided by Subsection (c) or (d), not]~~ later than the second business day after the date the state disbursement unit receives a child support payment, the state disbursement unit shall distribute the payment to the Title IV-D agency or the obligee.

SECTION 21. Subchapter A, Chapter 234, Family Code, is amended by adding Section 234.012 to read as follows:

Sec. 234.012. RELEASE OF INFORMATION FROM STATE CASE REGISTRY. Unless prohibited by a court in accordance with Section 105.006(c), the state case registry shall, on request and to the extent permitted by federal law, provide the information required under Sections 105.006 and 105.008 in any case included in the registry under Section 234.001(b) to:

- (1) any party to the proceeding;
- (2) an amicus attorney;
- (3) an attorney ad litem;
- (4) a friend of the court;
- (5) a guardian ad litem;
- (6) a domestic relations office;
- (7) a prosecuting attorney or juvenile court acting in a proceeding under Title 3; or
- (8) a governmental entity or court acting in a proceeding under Chapter 262.

SECTION 22. The following provisions of the Family Code are repealed:

- (1) Subsection (a-1), Section 231.006;
 - (2) Section 231.011;
 - (3) Subsection (d), Section 231.103;
 - (4) Section 231.310;
 - (5) Subsections (c), (d), and (e), Section 234.008;
- and
- (6) Chapter 235.

SECTION 23. (a) Subsection (f), Section 157.327, Family Code, as added by this Act, applies only to a financial institution that receives a notice of levy under that section on or after the effective date of this Act. A financial institution that receives a notice of levy under that section before the effective date of this Act is governed by the law in effect on the date the notice of levy is received, and the former law is continued in effect for that purpose.

(b) The changes in law made by this Act to Section 158.506, Family Code, apply only to an administrative writ of withholding issued on or after the effective date of this Act. An administrative writ of withholding issued before the effective date of this Act is governed by the law in effect at the time the administrative writ is issued, and the former law is continued in effect for that purpose.

(c) The changes in law made by this Act to Section 231.103, Family Code, apply only to fees that are incurred on or after the date that the rules adopted in accordance with that section take effect.

(d) The changes in law made by this Act relating to a court order establishing paternity or the obligation to pay child support apply only to a suit affecting the parent-child relationship filed on or after the effective date of this Act. A suit affecting the parent-child relationship filed before the effective date of this

Act is governed by the law in effect on the date the suit was filed,
and the former law is continued in effect for that purpose.

(e) The changes in law made by this Act relating to the
modification or enforcement of a child support order rendered
before the effective date of this Act apply only to a proceeding for
modification or enforcement that is commenced on or after the
effective date of this Act. A proceeding for modification or
enforcement that is commenced before the effective date of this Act
is governed by the law in effect on the date the proceeding was
commenced, and the former law is continued in effect for that
purpose.

SECTION 24. This Act takes effect September 1, 2007.

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